



**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

No. 2:20-cv-636

MACKENNETH ORTIZ,

Plaintiff

v.

LEE ESTOCK, *et al.*,

Defendants

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Plaintiff MacKenneth Ortiz is a state prisoner incarcerated at SCI Pine Grove. Mr. Ortiz filed a *pro se* complaint under 42 U.S.C. § 1983 alleging that the treatment he has received while in prison has failed to provide him with the specialized medical care that he needs for his various conditions. Mr. Ortiz also claims that those same conditions put him at increased risk of contracting COVID-19, and that the prison is not equipped to deal with an epidemic. “Compassionate release” is the only relief sought by Mr. Ortiz. [ECF 8, p. 2; ECF 13, p. 3].

Mr. Ortiz’s case was referred to United States Magistrate Judge Patricia Dodge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72 of the Local Rules for Magistrate Judges. Magistrate Judge Dodge granted Mr. Ortiz’s

motion to proceed in forma pauperis on May 6, 2020. [ECF 6]. Because of his IFP status, Magistrate Judge Dodge was required to “dismiss the case at any time if the court determine[d] that ... the action ... fails to state a claim upon which relief may be granted.” 28 U.S.C. § 1915(e)(2)(B)(ii).

On July 13, 2020, Magistrate Judge Dodge entered a Report and Recommendation, recommending that the Complaint “be dismissed without prejudice to [Mr. Ortiz] to submit either a habeas corpus petition under [28 U.S.C. § 2254] or a civil rights complaint under § 1983 which seeks relief other than release from custody, if appropriate.” [ECF 16]. That Report and Recommendation was served on Mr. Ortiz at SCI Pine Grove. [*Id.*]. Mr. Ortiz was also informed that the deadline for filing objections to the Report and Recommendation was July 30, 2020. [*Id.*]. As of today, however, no objections have been filed.

Upon independent review of the Complaint [ECF 8], Mr. Ortiz’s Pro Se Emergency Ex-Parte Omnibus Motion for Relief Pursuant to U.S.C. § 1983 [ECF 13], and the rest of the record, and upon consideration of Magistrate Judge Dodge’s well-reasoned Report and Recommendation, the Court finds no clear error on the face of the record, and therefore enters the following order:

AND NOW, this **7th day of August, 2020**, it is **ORDERED** that the Report and Recommendation [ECF 16] is adopted as the Opinion of the Court.

IT IS FURTHER ORDERED that the Complaint [ECF 8] is **DISMISSED** without prejudice and that this case be administratively closed.

BY THE COURT:

/s/ J. Nicholas Ranjan
United States District Judge

cc: MacKenneth Ortiz
NR-8123
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